

156 FERC ¶ 61,121  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, Tony Clark,  
and Colette D. Honorable.

BridgeTex Pipeline Company, LLC

Docket No. OR16-19-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued August 22, 2016)

1. On June 22, 2016, BridgeTex Pipeline Company, LLC (BridgeTex) filed a petition for declaratory order (Petition) requesting approval of the proposed proration policy, overall rate structure, and terms of service for a proposed expansion of the existing BridgeTex pipeline system (Expansion Project). BridgeTex also requests a ruling that the regulatory assurances provided by the Commission in its prior declaratory order regarding the existing BridgeTex pipeline system (2012 Declaratory Order)<sup>1</sup> are not affected by the Expansion Project.

2. BridgeTex requests the Commission act on the Petition no later than August 22, 2016, in order to make the Expansion Project available to shippers by mid-2017. The Commission grants the unopposed Petition and the specific declaratory rulings requested by BridgeTex, as discussed below.

**Background**

3. According to the Petition, the existing BridgeTex pipeline system has a capacity of 300,000 barrels per day (bpd) and transports crude oil from Colorado City, Texas to the Houston Gulf Coast area. BridgeTex is owned fifty percent by Magellan Midstream Partners, L.P. and fifty percent by Plains All American Pipeline, L.P. Magellan Pipeline Company, L.P. (Magellan) is the construction manager and operator of BridgeTex.<sup>2</sup>

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<sup>1</sup> *Oxy Midstream Strategic Dev., LLC*, 141 FERC ¶ 61,005 (2012).

<sup>2</sup> Petition at 2.

4. The Expansion Project will increase the capacity of the existing system by approximately 35,000 bpd (Expansion Capacity).<sup>3</sup> The Expansion Project will establish a new terminal origin located approximately 100 miles northwest of Houston in Brazos County near Bryan, Texas to serve the Eaglebine production area (the Bryan Terminal).<sup>4</sup> From the Bryan Terminal, shippers will be able to transport crude oil to the existing BridgeTex destination points in the Houston Gulf Coast area. The Expansion Project will transport two new grades of crude oil, Eaglebine Select and Condensate.<sup>5</sup> The Expansion Project is expected to be in service by mid-2017.<sup>6</sup>

5. BridgeTex states that the existing pipeline infrastructure from the Eaglebine production area is currently inadequate to accommodate current and projected levels of production, requiring producers and marketers to rely on truck transportation. According to BridgeTex, the Expansion Project will provide needed additional capacity for the transportation of crude oil from the Eaglebine production area to the Houston Gulf Coast area, where producers and marketers can access numerous third-party distribution systems and connections. In addition, BridgeTex claims that the Expansion Project will provide a safer and more economical transportation mode than trucking and will facilitate future Eaglebine production.<sup>7</sup>

6. BridgeTex states that in addition to expanding the throughput capacity of the existing BridgeTex system from the Bryan Terminal to the Magellan East Houston destination, BridgeTex is leasing from Magellan (1) additional operational tankage at Magellan's East Houston Terminal and (2) additional throughput capacity on Magellan's Houston Distribution System, to allow shippers originating shipments from the Bryan Terminal access to the existing BridgeTex destination points in the Houston Gulf Coast area. BridgeTex states it is also constructing related assets at the Bryan Terminal, including operational tanks to facilitate the batched shipment of the new Eaglebine Select and Condensate grades, as well as non-jurisdictional truck unloading facilities, and metering and sampling facilities.<sup>8</sup>

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<sup>3</sup> *Id.* at 4.

<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.* at 4, 14.

<sup>8</sup> *Id.* at 5.

7. The Petition states that BridgeTex initiated a transparent and widely publicized open season from December 17, 2015 to February 15, 2016 seeking commitments for the Expansion Project of between 10,000 bpd to 30,000 bpd, in 5,000 bpd increments. BridgeTex provided each interested shipper that executed the confidentiality agreement with the form of the Transportation Service Agreement (TSA) and an open season summary. BridgeTex offered up to 30,000 bpd of non-priority Expansion Capacity subject to prorationing to committed shippers (Expansion Committed Shippers). Ten percent of the Expansion Capacity was set aside for uncommitted shippers (Expansion Uncommitted Shippers).<sup>9</sup>

### **TSA and Proration Policy**

8. The TSAs provide that Expansion Committed Shippers will receive non-priority capacity at a discount to the uncommitted rates, in exchange for their volume commitments (Expansion Committed Rates). The Expansion Committed Rates vary according to destination. BridgeTex will not voluntarily adjust any uncommitted rate applicable to the Eaglebine Expansion Capacity such that it is less than the corresponding Expansion Committed Rate plus \$0.15. An Expansion Committed Shipper is eligible to ship volumes up to 120 percent of its commitment on a monthly, space-available basis at the applicable discounted rate. An Expansion Committed Shipper will be required to make a deficiency payment if it does not meet its volume commitment in a given contract quarter. A deficiency payment will serve as a credit against charges incurred by the shipper during the next four contract quarters.<sup>10</sup>

9. The TSAs provide for annual increases of the Expansion Committed Rates in an amount equal to the FERC Oil Pipeline Index, subject to an escalation cap of five percent each year. If the FERC Index would result in an increase of more than five percent in a given year, the increase above five percent will be banked for subsequent years when the Index increase is less than five percent. If the FERC Index would result in a decrease in a given year, the decrease will be banked and used to offset increases in subsequent years. The TSAs provide that the escalation cap will not impact BridgeTex's indexed ceiling rate level under the FERC's indexing regulations. In addition, the TSAs provide for certain rate adjustments and surcharges to the Expansion Committed Rates in the event BridgeTex is required to incur specified additional expenses due to a change in the law.<sup>11</sup>

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<sup>9</sup> *Id.* at 6-8.

<sup>10</sup> *Id.* at 8-9, 16.

<sup>11</sup> *Id.* at 9-10, Daggett Affidavit at PP 18-19.

10. BridgeTex states that the Expansion Capacity will be prorated based on a historical prorationing methodology and will be prorated separately from the capacity of the existing BridgeTex pipeline. Ten percent of the Expansion Capacity will be set aside for Expansion New Shippers. Each Expansion New Shipper will be allocated up to two percent of the total Expansion Capacity. If the allocation among all Expansion New Shippers would exceed ten percent of total Expansion Capacity, the allocations will be reduced on a *pro rata* basis. A lottery process will be established to apply in the event that such *pro rata* allocation in a given month would result in no Expansion New Shipper being able to meet the monthly minimum volume.<sup>12</sup> All Expansion Capacity not allocated to Expansion New Shippers is allocated to Expansion Regular Shippers on a historical basis. The historical shipment status for an Expansion Committed Shipper in a proration month will equal the greater of its average shipments during the base period or its volume commitment.<sup>13</sup>

11. The TSAs provide that Expansion Committed Shippers may extend the contract terms for two periods of two years each. In addition, Expansion Committed Shippers may have a one-time right to increase their volume commitment level before the Expansion Facilities go into service if a portion of the Expansion Capacity offered in the open season remains available. The TSAs also grant Expansion Committed Shippers a right of first offer for certain additional expansion capacity for one year after the in-service date of the Expansion Project. If BridgeTex subsequently offers such additional expansion capacity in an open season at a lower committed rate to a shipper similarly situated to the Expansion Committed Shippers, BridgeTex must reduce the Expansion Committed Rates to match the lower committed rate.<sup>14</sup>

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<sup>12</sup> Petition at 10-11, 24-25. Under the lottery process, a software-generated random number process will assign each Expansion New Shipper a number from one to the number representing the total number of participating Expansion New Shippers. The Expansion New Shipper assigned number one will receive the first minimum allocation, and thereafter each minimum allocation will be assigned to Expansion New Shippers sequentially, from the lowest to the highest number, until the ten percent of the Expansion Capacity reserved for Expansion New Shippers has been allocated. *See* Attachment D to Daggett Affidavit (Expansion Proration Policy).

<sup>13</sup> Petition at 11. The Petition states that an Expansion Regular Shipper is a shipper that has shipped on the Expansion Facilities during at least twelve months of an eighteen-month base period, or an Expansion Committed Shipper. *Id.* at 25. The base period is the eighteen-month period beginning nineteen months prior to the month being allocated, which excludes the month preceding the month of allocation. *See* Attachment D to Daggett Affidavit (Expansion Proration Policy).

<sup>14</sup> *Id.* at 10, 20-21.

12. The TSAs provide that no party may assign the agreement or its rights under the agreement without prior written consent of the other party, which consent may not be unreasonably withheld or delayed. Shipper history and Expansion Committed Shipper allocations may not be assigned, except as an incident of the bona fide sale of all or substantially all of the shipper's business. In addition, BridgeTex may add new origins, destinations and crude oil grades to the Expansion Facilities.<sup>15</sup>

### **Requested Rulings**

13. BridgeTex requests Commission approval of the overall rate structure and terms of service for the Expansion Project as set forth in the TSAs, specifically seeking approval or confirmation of the following:

- A. The TSAs will be honored and their key provisions will be upheld and will govern the transportation services BridgeTex provides to Expansion Committed Shippers during the contract terms.
- B. The Expansion Committed Rates provided for in the TSAs will be treated as settlement rates during their terms, including upon their initial filing with the Commission and any subsequent adjustments pursuant to 18 C.F.R. § 342.4(c) of the Commission's regulations.
- C. BridgeTex may provide non-firm capacity to Expansion Committed Shippers that represents no more than ninety percent of the Expansion Capacity, with at least ten percent of the Expansion Capacity reserved for Expansion New Shippers.
- D. BridgeTex may implement a rate structure in which an Expansion Committed Shipper pays discounted volume incentive rates that vary by destination, including for volumes up to 120 percent of its commitment level, so long as sufficient reserved capacity remains available for uncommitted shippers.
- E. The Expansion Committed Rates may be increased annually by the amount of the FERC Index up to five percent subject to the escalation cap and banking provisions discussed above.<sup>16</sup>
- F. The Expansion Committed Shipper Rates may be increased or a surcharge may be imposed on Expansion Committed Shippers due to a change in the law as specified in the TSAs.

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<sup>15</sup> *Id.* at 26-28.

<sup>16</sup> *See supra* P 9.

- G. An Expansion Committed Shipper may extend the term of its TSA for two periods of two years each.
- H. An Expansion Committed Shipper may increase its volume commitment level on a one-time basis in 5,000 bpd increments by providing written notice to BridgeTex.
- I. BridgeTex may provide Expansion Committed Shippers with a right of first offer for additional expansion capacity as specified in the TSAs, and BridgeTex may reduce the Expansion Committed Rates if it offers lower committed rates to a similarly situated shipper in a subsequent open season for such additional expansion capacity.
- J. BridgeTex may implement its proposed prorationing policy in the event that nominations on the Expansion Facilities in a given month exceed available Expansion Capacity.
- K. BridgeTex may add additional origin points, destination points and crude oil grades on the Expansion Facilities, all of which will be governed by the TSAs.
- L. BridgeTex and the Expansion Committed Shippers may assign the TSAs with the consent of the non-assigning party.
- M. The regulatory assurances provided by the Commission in its 2012 Declaratory Order are not affected by the Expansion Project, associated open season and proposed prorationing policy for the Expansion Facilities.

### **Public Notice, Intervention, Protests and Comments**

14. Notice of the Petition was issued on June 23, 2016, providing for motions to intervene, comments and protests to be filed on or before July 22, 2016. No motions to intervene, comments, or protests were filed. The Petition is thus unopposed.

### **Discussion**

15. Based upon the representations made in the Petition, the proposed TSA terms appear consistent with Commission precedent under the Interstate Commerce Act. The Commission grants the unopposed Petition as briefly summarized below.

16. The Commission finds that the proposed rate structure and treatment of the Expansion Committed Rates as settlement rates are consistent with Commission precedent.<sup>17</sup> Accordingly, the Commission approves the treatment of the initial Expansion Committed Rates and any adjustments thereto pursuant to the TSAs as settlement rates. The Commission also confirms that the TSAs will be honored and their key provisions will be upheld and will govern the transportation services BridgeTex provides to Expansion Committed Shippers during the contract terms.<sup>18</sup>

17. The Commission further finds that BridgeTex may implement a rate structure in which an Expansion Committed Shipper pays discounted volume incentive rates that vary by destination,<sup>19</sup> including for volumes up to 120 percent of its commitment level on a space available basis. The Commission has approved proposals that allow committed shippers to ship volumes in excess of their commitment at discounted rates where sufficient capacity remains available for uncommitted shippers.<sup>20</sup>

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<sup>17</sup> See, e.g., *Seaway Crude Pipeline Co. LLC*, 142 FERC ¶ 61,201, at PP 12-13 (2013); *Kinder Morgan Pony Express Pipeline LLC and Hiland Crude, LLC*, 141 FERC ¶ 61,249, at P 18 (2012); *Buckeye Pipe Line Transp., LLC*, 154 FERC ¶ 61,130, at P 21 (2016); *NORCO Pipe Line Co., LLC*, 152 FERC ¶ 61,170, at P 21 (2015).

<sup>18</sup> See *Saddlehorn Pipeline Co., LLC*, 153 FERC ¶ 61,067, at P 33 (2015); *CenterPoint Energy Bakken Crude Servs., LLC*, 144 FERC ¶ 61,130, at P 17 (2013).

<sup>19</sup> See *Dakota Access, LLC and Energy Transfer Crude Oil Co., LLC*, 149 FERC ¶ 61,275, at PP 15, 33 (2014); *Bayou Bridge Pipeline, LLC*, 153 FERC ¶ 61,322, at PP 4, 29 (2015).

<sup>20</sup> See, e.g., *Sunoco Pipeline, L.P.*, 151 FERC ¶ 61,192, at P 12 (2015); *Dominion NGL Pipelines, LLC*, 145 FERC ¶ 61,133, at PP 11, 20 (2013); *Bayou Bridge Pipeline*, 153 FERC ¶ 61,322 at PP 4, 27; *Saddlehorn Pipeline*, 153 FERC ¶ 61,067 at PP 20, 35.

18. The Commission finds that the rate adjustments for Expansion Committed Shippers,<sup>21</sup> the option to increase their volume commitments,<sup>22</sup> the right of first offer,<sup>23</sup> the term extension options,<sup>24</sup> and assignment rights<sup>25</sup> are consistent with Commission precedent and are approved. The Commission also approves the ability of BridgeTex to add additional origin points, destination points and crude oil grades on the Expansion Facilities, which will be governed by the TSAs.<sup>26</sup>

19. The proposed proration policy for the Expansion Capacity is also consistent with Commission precedent in ensuring that at least ten percent of the Expansion Capacity is reserved for Expansion New Shippers.<sup>27</sup> Under the proposed proration policy, Expansion Capacity not allocated to Expansion New Shippers is allocated to Expansion Regular Shippers on a historical basis. The historical shipment status for an Expansion Committed Shipper in a proration month will equal the greater of its average shipments during the base period or its volume commitment. The Commission finds that BridgeTex

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<sup>21</sup> See *Platte River Midstream, Inc.*, 155 FERC ¶ 61,107, at P 15 (2016); *Oryx Southern Delaware Oil Gathering and Transport LLC*, 154 FERC ¶ 61,065, at PP 23, 27 (2016); *Saddlehorn Pipeline*, 153 FERC ¶ 61,067 at P 36; *Dominion NGL Pipelines*, 145 FERC ¶ 61,133 at PP 11, 20.

<sup>22</sup> See *Oryx Southern Delaware Oil Gathering*, 154 FERC ¶ 61,065 at P 21; *Marathon Pipe Line LLC*, 152 FERC ¶ 61,237, at P 18 (2015); *Sunoco Pipeline*, 151 FERC ¶ 61,192 at P 14.

<sup>23</sup> See *Enbridge Pipelines (Southern Lights) LLC*, 141 FERC ¶ 61,244, at P 26 (2012); *CenterPoint Energy Bakken Crude Servs.*, 144 FERC ¶ 61,130 at P 33; *Saddlehorn Pipeline*, 153 FERC ¶ 61,067 at PP 24, 34.

<sup>24</sup> See *Marathon Pipe Line*, 152 FERC ¶ 61,237 at P 13; *Medallion Pipeline Co., LLC*, 148 FERC ¶ 61,095, at PP 7, 18 (2014); *Hiland Crude, LLC*, 148 FERC ¶ 61,228, at P 24 (2014).

<sup>25</sup> See *Shell Pipeline Co. LP*, 141 FERC ¶ 61,017, at P 16 (2012); *NuStar Crude Oil Pipeline L.P.*, 146 FERC ¶ 61,146, at P 14 (2014); *Powder River Crude Services, LLC and Power River Express, LLC*, 154 FERC ¶ 61,066, at PP 14, 22 (2016).

<sup>26</sup> See *Sunoco Pipeline L.P.*, 149 FERC ¶ 61,191, at PP 24-25, 27 (2014); *Wolverine Pipe Line Co.*, 153 FERC ¶ 61,109, at P 25 (2015); *Saddlehorn Pipeline*, 153 FERC ¶ 61,067 at P 37.

<sup>27</sup> See, e.g., *Dakota Access*, 149 FERC ¶ 61,275 at P 37; *Sunoco Pipeline L.P.*, 147 FERC ¶ 61,204, at P 30 (2014).



may provide non-firm capacity to Expansion Committed Shippers that represents no more than ninety percent of Expansion Capacity, with at least ten percent of the Expansion Capacity reserved for Expansion New Shippers, and that BridgeTex may implement its proposed prorationing policy in the event that nominations on the Expansion Facilities in any given month exceed available Expansion Capacity. BridgeTex's proposal is consistent with similar prorationing policies approved by the Commission.<sup>28</sup>

20. The Commission also approves BridgeTex's proposed lottery mechanism for allocation of capacity available to Expansion New Shippers in months where no Expansion New Shipper would meet the monthly minimum volume under *pro rata* allocation. The Commission has approved similar lottery mechanisms to allocate capacity in like circumstances.<sup>29</sup>

21. The Commission confirms that the 2012 Declaratory Order regarding the BridgeTex pipeline system<sup>30</sup> remains effective and is not impacted by the Expansion Project. BridgeTex represented that the Expansion Capacity will be prorated separately from the existing BridgeTex pipeline system capacity, so that the access of committed and uncommitted shippers to capacity on the existing BridgeTex system will be unaffected. Further, the TSAs entered into in the initial open season conducted in 2012 have not been changed or modified. Based on the facts and representations made by BridgeTex, the Commission finds that the regulatory assurances provided by the Commission in its 2012 Declaratory Order are not affected by the Expansion Project.

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<sup>28</sup> See, e.g., *Enbridge Pipelines (FSP) LLC*, 146 FERC ¶ 61,148, at P 29 (2014); *Sunoco Pipeline*, 147 FERC ¶ 61,204 at P 30; *Sunoco Pipeline*, 151 FERC ¶ 61,192 at P 13; *Bayou Bridge Pipeline*, 153 FERC ¶ 61,322 at PP 8-9, 30; *Saddlehorn Pipeline*, 153 FERC ¶ 61,067 at PP 25-27, 34.

<sup>29</sup> See, e.g., *Bayou Bridge Pipeline*, 153 FERC ¶ 61,322 at P 31; *Sunoco Pipeline*, 151 FERC ¶ 61,192 at P 13; *Sunoco Pipeline*, 147 FERC ¶ 61,204 at P 31; *Enbridge Pipelines (FSP)*, 146 FERC ¶ 61,148 at P 30; *Dakota Access*, 149 FERC ¶ 61,275 at P 38; *Saddlehorn Pipeline*, 153 FERC ¶ 61,067 at PP 25, 34.

<sup>30</sup> *Oxy Midstream Strategic Dev., LLC*, 141 FERC ¶ 61,005 (2012).

The Commission orders:

The Petition is granted as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,  
Secretary